

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN E. MILLER,	§
	§ No. 431, 2011
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 9712003463
	§
Plaintiff Below-	§
Appellee.	§

Submitted: August 23, 2011

Decided: August 24, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 24th day of August 2011, it appears to the Court that:

(1) In April 1998, the appellant, John E. Miller, pleaded guilty to Robbery in the First Degree and was sentenced to 30 years of Level V incarceration. Miller's conviction and sentence were affirmed by this Court on direct appeal.¹

(2) Over the past 10 years, Miller has filed numerous motions and petitions for relief, all of which have unsuccessfully challenged his 1998 guilty plea and/or sentence. By Order dated May 5, 2009, which affirmed the Superior Court's denial of his twelfth motion for postconviction relief,

¹ *Miller v. State*, Del. Supr., No. 420, 1998, Hartnett, J. (Aug. 4, 1999).

this Court found that “Miller’s excessive and repetitive filings constitute an abuse of the processes of this Court.”² The Court enjoined Miller from filing future claims relating to his 1998 guilty plea and/or sentence and ordered that “no future filings by Miller . . . shall be docketed unless first reviewed and approved for filing by a Justice of this Court.”³

(3) On August 16, 2011, Miller filed this appeal from the Superior Court’s July 29, 2011 denial of his fourteenth motion for postconviction relief. Miller did not seek leave to file his notice of appeal, and the Clerk inadvertently did not submit Miller’s appeal to a Justice of this Court for review and approval for filing.⁴

(4) Having conducted a preliminary review of Miller’s latest appeal, the Court has concluded that the appeal is based on a postconviction motion that was both repetitious and frivolous, as the Superior Court held below. Therefore, applying the dictates of our May 5, 2009 Order, we have determined, *nunc pro tunc*, that Miller’s notice of appeal is not approved for filing.⁵

² *Miller v. State*, Del. Supr., No. 72, 2009, Berger, J. (May 5, 2009).

³ *Id.*

⁴ On August 23, 2011, Miller filed a motion “for permission to file and brief this appeal.”

⁵ See this Court’s prior Order reaching the identical result in *Miller v. State*, Del. Supr., No. 448, 2010, Jacobs, J. (Dec. 9, 2010).

NOW, THEREFORE, IT IS ORDERED that Miller's appeal papers are STRICKEN and this matter is DISMISSED, *sua sponte*, pursuant to Supreme Court Rule 29(c).

BY THE COURT:

/s/ Myron T. Steele
Chief Justice